THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.13690 of 2004

Dated:9.11.2006

Between
1.Yalla Venkata Ramana Murthy
and others.

.....Petitioners

and

1.Govt of AP, rep., by its
Secretary, Irrigation Dept,
Secretariat, Hyderabad and
Others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.13690 of 2004

ORDER:

This writ petition is filed seeking a Mandamus to declare inaction of the respondents in resolving the dispute according to procedure contemplated under the A.P. Irrigation Utilization & Command Area Development Act, 1984 (for short 'the Act') and in stopping drawal of water from Sluice No.11 of Kazuluru No.2 channel by the petitioners for irrigating their lands to an extent of Ac.12.04 cents in S.Nos.562/1 and 2, 563/3 and 4 and 564/1 and 3, in Kazuluru village and Mandal, East Godavari District, as illegal and arbitrary.

It is the case of the petitioners that they are irrigating their lands by drawing water from Kazuluru No.2 channel, which flows from Vella North. About thirty years back, they got dug a small

tank in Survey No.564/3 to an extent of Ac.0-50 cents of land. Since then, the petitioners have been drawing water through a Bodi from sluice No.11 of Kazuluru Channel, filling the tank through it, and irrigating their lands through that tank by using oil engines. While that being so, due to village politics, some of the persons created problems by giving representation to the authorities stating that they are using oil engines un-authorizedly, and it will cause damage to the other ryots. Basing on the said representation, without conducting any enquiry, the 6th respondent seized their oil engines high-handedly. Therefore, the petitioners filed writ petition No.705 of 2003 before this Court and the same was allowed on 2.5.2003 holding that the 6th respondent has no power to seize the oil engines and directed the 6th respondent to hand over the oil pumps and other seized materials to them. Further, they filed another writ petition No. 20162 of 2003 and the same was disposed on 29.3.2003 directing the

petitioners to represent the matter to the 6th respondent, and the 6th respondent to dispose of the same according to law. The grievance of the petitioners is that they gave a representation to the 6th respondent on 19.11.2003, but the 6th respondent, without conducting any enquiry, issued the impugned order dated 12.03.2004 rejecting their representation.

According to the petitioners, under the Act, they have to approach the 5th respondent-Irrigation Officer, but the release of water is under the supervision of the 6th respondent for respective villages. The 5th respondent has to conduct elections for Pipeline Committee, which is under the control of 2nd respondent. The members of the committee are among the land holders, who are having lands under that particular ayacut, and the committee has power to decide the matter if there is any dispute in between the land holders. It can conduct enquiry by calling both the parties. If the committee is not in existence or if it is not

discharging its duties, the 5th respondent is the competent authority to resolve the matter as Irrigation Officer of that division. In addition, the petitioners have right to file an appeal before the 4th respondent, i.e., Collector. Further, they have right to file a revision before the Commissioner, questioning the order of the Collector. But 6th respondent is interfering with their rights, without having any power and further passed the impugned order. Further in pursuant to the interim order passed by this Court on 11-8-2004 it is for the Revenue Divisional Officer, to conduct the enquiry but not the Mandal Revenue Officer, as required under law.

In view of the above, without expressing any opinion on merits, the 5th respondent-Irrigation Officer is directed to treat this very writ petition as a representation made by the petitioners and dispose of the same within a period of four weeks from the date of receipt of a copy of this order, as per law, after enquiring with the Pipeline Committee and by taking into consideration the Warabandi of each ryot

and communicate the same to the petitioners.

Writ petition is disposed of accordingly. No costs.

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09-11-2006

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